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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

YAZID ABDUL SAIYAD,

Defendant and Appellant.

A154778

(San Francisco County
Super. Ct. No. SCN228741)

A jury convicted defendant and appellant Yazid Abdul Saiyad (appellant) of two misdemeanors, simple assault and elder abuse. Appellant's counsel has raised no issue on appeal and asks this court for an independent review of the record to determine whether there are any arguable issues. (See *Anders v. California* (1967) 386 U.S. 738; *People v. Wende* (1979) 25 Cal.3d 436.) Appellant has not filed a supplemental brief. We affirm.

PROCEDURAL BACKGROUND

In March 2018, appellant was charged by information with assault by means of force likely to cause great bodily injury (Pen. Code, § 245, subd. (a)(4); count one),¹ inflicting injury on an elder likely to cause great bodily injury (§ 368, subd. (b)(1); count two), and battery causing great bodily injury (§ 243, subd. (d); count three). Enhancement allegations for great bodily injury were associated with each of the three

¹ All undesignated statutory references are to the Penal Code.

counts. Before trial, the trial court dismissed count three, as well as the great bodily injury allegations associated with counts one and two.

A jury found appellant guilty of lesser included misdemeanor charges on both counts: simple assault (§ 240) on count one and elder abuse (§ 368, subd. (c)) on count two.²

In June 2018, the trial court suspended imposition of sentence and granted probation with the condition appellant serve 158 days in jail; the court awarded appellant credit for 158 days in custody. All fees were waived due to appellant's indigence.

FACTUAL BACKGROUND

Three witnesses testified they were in the vicinity of Post Street and Polk Street in San Francisco around 4:35 pm on January 5, 2018. Two of the witnesses saw an elderly man, the victim Louis Bania, fall to the ground. All three witnesses saw a man, who they identified at trial as appellant, kick the victim more than once. One witness reported hearing appellant aggressively tell the victim "get out of my way."

Appellant left the area and one of the witnesses followed. The witness was on the phone with 911 while following appellant, and he flagged down a police car and directed them to an alley appellant had entered. The police detained appellant.

DISCUSSION

We have reviewed the entire record and have found no arguable appellate issues. There were no prejudicial errors in the admission of evidence at trial. There were no prejudicial errors in the court's instructions to the jury or in the court's responses to questions from the jury during deliberations. Substantial evidence supports the jury's verdict. The trial court's sentence was proper.

In a declaration accompanying the *Wende* brief, appellate counsel averred that she determined that appellant is homeless and that she attempted to advise him through trial counsel of his right to file a supplemental brief to bring to this court's attention any issue

² The trial court's minutes incorrectly state that appellant was found guilty under section 368, subdivision (b)(1), but that is the felony elder abuse charge of which appellant was acquitted. We will direct the court to correct the minutes of the judgment.

he believes deserves review. (See *People v. Kelly* (2006) 40 Cal.4th 106.) This court directed appellate counsel to provide a further declaration regarding her efforts to contact appellant following the filing of the *Wende* brief. In a declaration dated March 14, 2019, appellate counsel averred that trial counsel had been unable to contact appellant and that appellate counsel had been unable to locate appellant on her own. There are no legal issues that require further briefing.

DISPOSITION

The judgment is affirmed. The trial court is directed to correct the minutes of the judgment to reflect that appellant was convicted of misdemeanor elder abuse under section 368, subdivision (c).

SIMONS, J.

We concur.

JONES, P.J.

NEEDHAM, J.

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